

§ 30.23

the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts.

(ii) In determining whether the costs of collection justify enforced collection of the full amount, the Secretary will consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principal, such as the Government's willingness to pursue aggressively defaulting and uncooperative debtors.

(4) *Doubt debt can be proven in court.* There is significant doubt concerning the Government's ability to prove its case in court.

(i) If there is significant doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a bona fide dispute as to the facts, then the amount accepted in compromise of such cases should fairly reflect the probabilities of successful prosecution to judgment, with due regard to the availability of witnesses and other evidentiary support for the Government's claim.

(ii) In determining the litigation risks involved, the Secretary will consider the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412, that may be imposed against the Government if it is unsuccessful in litigation.

(b) *Installments.* The Secretary generally will not accept compromises payable in installments. This is not an advantageous form of compromise in terms of time and administrative expense. If, however, payment of a compromise in installments is necessary, the Secretary shall, except in the case of compromises based on paragraph (a)(4) of this section, obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. The Office of the General Counsel should be consulted concerning the appropriateness of including such a requirement in the case of compromises based on paragraph (a)(4) of this section. Whenever possible, the Secretary will obtain se-

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curity for repayment in the manner set forth in subpart B of this part.

§ 30.23 Enforcement policy.

The Secretary may compromise statutory penalties, forfeitures, or claims established as an aid to enforcement and to compel compliance if the Department's enforcement policy, in terms of deterrence and securing compliance, present and future, will be adequately served by the Secretary's acceptance of the sum to be agreed upon.

§ 30.24 Joint and several liability.

(a) When two or more debtors are jointly and severally liable, the Secretary will pursue collection against all debtors, as appropriate. The Secretary will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible.

(b) The Secretary will ensure that a compromise agreement with one debtor does not automatically release the Department's claim against the remaining debtor(s). The amount of a compromise with one debtor shall not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

§ 30.25 Further review of compromise offers.

If the Secretary is uncertain whether to accept a firm, written, substantive compromise offer on a debt that is within the Secretary's delegated compromise authority, the Secretary may refer the offer to the Civil Division or other appropriate litigating division in Justice, using a CCLR accompanied by supporting data and particulars concerning the debt. Justice may act upon such an offer or return it to the Secretary with instructions or advice.

§ 30.26 Consideration of tax consequences to the Government.

In negotiating a compromise, the Secretary will consider the tax consequences to the Government. In particular, the Secretary will consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of